

REMARKS

Claims 1-46 were pending and presented for examination. In an Office Action dated December 31, 2007, claims 20, 36-37 and 46 were objected to and claims 1-46 were rejected. In response, claims 1-2, 4-8, 10-11, 13, 16, 18-20, 23-24, 26-30, 32-44 are amended and claims 3, 9, 25, 31 and 45-46 are cancelled. Claims 47-54 are added in this response. The features of claims 47-54 are found in originally filed claim 16. Thus, no new matter has been added. Claims 1-2, 4-8, 10-24, 26-30, 32-44 and 47-54 are pending upon entry of this amendment.

Objection to the Claims

Applicants have cancelled claim 45 and amended claims 20 and 36-37 to correct the informalities pointed out by the Examiner.

Response to Rejection Under 35 USC § 112, Paragraph 2

Claims 36-37 and 45-46 stand rejected under 35 USC § 112, ¶ 2 as allegedly not specifically pointing out and distinctly claiming the subject matter that Applicants regard as the invention.

Applicants have amended claim 36 and 37 to depend from claim 24 to correct the antecedent basis issues present in the claims. Applicants respectfully submit that claims 36 and 37 now clearly recite the subject matter which the Applicants regard as the invention.

Applicants have cancelled claims 45 and 46 without prejudice or disclaimer.

Response to Rejection Under 35 USC § 101

Claims 23-42 stand rejected under 35 USC § 101, as allegedly reciting non-statutory subject matter. The Examiner states that claims 23-42 recite program code and since

program code is not necessarily a computer program, the inventions of claims 23-42 are not statutory subject matter within the meaning of § 101.

Applicants disagree with this rejection. Nevertheless, to expedite prosecution Applicants have amended claims 23-42 to recite that the program code is executable and is stored on a computer-readable storage medium. Applicants submit that amended claims 23-42 recite functional descriptive material and are statutory under § 101 for the reasons stated in the Office Action. Therefore, Applicants request the Examiner withdraw the rejection.

Response to Rejection Under 35 USC § 102(b)

Claims 1-4, 7, 11-12, 14-16, 18-20, 22-26, 29, 33-34, 36-38, 40-42, and 44-45 stand rejected under 35 USC § 102(b) as allegedly being anticipated by Johnson, U.S. Patent Publication No. 2002/0107847. This rejection is traversed in view of the amended claims.

Amended claim 1 recites a method comprising:

receiving image data associated with an article, the image data
identifying a plurality of images within the article;
determining a plurality of image data signals for the plurality of
images based at least in part on the image data;
**determining a plurality of image data scores for the plurality of
images based at least in part on the plurality of
image data signals and the article; and**
**selecting an image of the plurality of images as a representative
image for the article based at least in part on the
plurality of image data scores.**

The claim recites receiving image data associated with an article, the image data identifying a plurality of images within the article. A plurality of image data signals are determined for the plurality of images identified within the article based at least in part on the image data. A plurality of image data scores is determined for the plurality of images based at least in part on the plurality of image data signals and the article. A representative image

for the article is selected from an image of the plurality of images based at least in part on the plurality of image data scores. The recited features of the claimed invention allow for selection of a representative image of an article from the plurality of images within the article. The recited features are beneficial as the selection is based on the plurality of image data scores, which is determined based on both the plurality of image data signals and the article itself. For example, the scores can be based in part on data adjacent to the image, such as text or an image caption within the article. (Specification, ¶ [0039].)

Johnson does not disclose “determining a plurality of image data scores for the plurality of images based on the plurality of image data signals and the article.” Johnson discloses a system and method for generating visual or multimedia search results in response to an Internet document search query. (Johnson, Abstract.) The Examiner argues that the claimed “plurality of image data scores” corresponds to Johnson’s disclosure of “image height” in Figure 7, element 1828.

However, a close inspection of Johnson illustrates that Johnson is merely determining if “the HTML document image is greater than 64 pixels in height.” (Johnson, ¶ [0035].) Johnson analyzes image pixel height to test if images within the HTML document are web advertisements. Web advertisements are generally restricted to defacto standards in size which facilitates placement of the web advertisements in HTML documents. Johnson exploits these defacto standards to determine web advertisements within the HTML document. Johnson assumes that images within the HTML document that are greater than 64 pixels in height are not web advertisements and are representative images of the HTML document. (Johnson, ¶ [0035].)

Assuming for the sake of argument that Johnson's "image height" corresponds to the claimed "plurality of image data scores," Johnson discloses that the image data score is based on only image data (i.e., the pixel height of the image). Thus, Johnson's score is not based at least in part on the plurality of image data signals **and the article**, as claimed. Therefore, Johnson does not disclose "determining a plurality of image data scores for the plurality of images based on the plurality of image data signals and the article."

Based on the above amendment and the remarks, Applicants respectfully submit that for at least these reasons, claim 1 is patentably distinguishable over the cited Johnson reference. Therefore, Applicants respectfully request that the Examiner reconsider the rejection, and withdraw it.

Claim 23 is patentably distinguishable over Johnson for at least the same reasons. Therefore, Applicants respectfully request that the Examiner reconsider the rejection, and withdraw it.

Applicants have cancelled claim 45 without prejudice or disclaimer. Therefore, the rejection of claim 45 is moot.

Response to Rejection Under 35 USC § 103(a)

Claims 5-6, 8-10, 13, 17, 21, 27-28, 30-32, 35, 39, 43, and 46 stand rejected under 35 USC § 103(a) as allegedly being unpatentable over Johnson as applied to claims 1-4, 7, 11-12, 14-16, 18-20, 22-26, 29, 33-34, 36-38, 40-42, and 44-45. This rejection is respectfully traversed.

Applicants have cancelled dependent claims 9, 31 and 46 without prejudice or disclaimer. Therefore, the rejection of claims 9, 31 and 46 is moot.

The obviousness rejection of claims 5-6, 8, 10, 13, 17, 21, 27-28, 30, 32, 35, 39 and 43 applied Johnson only for the dependent limitations in the claims. The dependent claims above incorporate the limitations of claim 1 or 23 either directly or indirectly. Applicants submit that claims 5-6, 8, 10, 13, 17, 21, 27-28, 30, 32, 35, 39 and 43 are allowable for at least the reasons described above, in addition to the further patentable features recited therein.

Conclusion

In sum, Applicants respectfully submit that claims 1-2, 4-8, 10-24, 26-30, 32-44 and 47-54, as presented herein, are patentably distinguishable over the cited references. Therefore, Applicants request reconsideration of the basis for the rejections to these claims and request allowance of them.

In addition, Applicants respectfully invite the Examiner to contact Applicants' representative at the number provided below if the Examiner believes it will help expedite furtherance of this application.

Respectfully Submitted,
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